

FILED  
IN THE UNITED STATES DISTRICT COURT FOR THE  
MISSOURI, MT

FOR THE DISTRICT OF MONTANA 2 PM 2 04  
2006 JUN 2 PM 2 04

MISSOULA DIVISION PATRICK E. DUFFY  
BY \_\_\_\_\_

GLENN OLSON ) DEPUTY CLERK  
) CV 05-55-M-DWM  
)  
Petitioner, )  
) ORDER  
vs. )  
)  
STATE OF MONTANA, )  
)  
Respondent. )  
\_\_\_\_\_  
)

On April 19, 2006, United States Magistrate Judge Leif B. Erickson entered Findings and Recommendation on this matter. Plaintiff did not timely object and has so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach.*, Inc. 656 f. 2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Erickson is correct in finding that Petitioner's request for a Writ of *Coram Nobis* should be denied and this Court adopts Judge Erickson's Findings and Recommendation in full.

Petitioner's Writ of *Coram Nobis* is inappropriate in this Court. A petition for a writ of *coram nobis* is only available to those who are no longer in custody, which makes this writ

unavailable to the Petitioner. See *United States v. Brown*, 412 F.2d 878, 879 (9th Cir. 1969). Additionally, a petition for a writ of *coram nobis* is only able to redress issues arising from the same court in which the writ is being filed. See *Hensley v. Municipal Court*, 453 F.2d 1252, 1252 n.2 (9th Cir. 1972) (*per curiam*) *rev'd on other grounds*, 411 U.S. 345 (1973). Petitioner here is hoping to ameliorate alleged errors that occurred in state court proceedings, making this federal court the wrong forum to seek *coram nobis* relief.

This Court is also unable to recognize Petitioner's action as a *habeas corpus* claim due to the multitude of issues stemming from Petitioner's objection to convictions from more than one state court. Rule 2(e) of the Rules Governing § 2254 Cases. If Petitioner desires to challenge these convictions he must do so by filing a separate petition for each conviction.

Based on the foregoing reasons, this Court adopts Judge Erickson's Findings and Recommendation in full.

Accordingly, **IT IS HEREBY ORDERED:**

Petitioner's Petition for Writ of *Coram Nobis* is **DENIED**.

DATED this 2 day of May 2006.

Donald W. Molloy, Chief Judge  
United States District Court